

02.06.33 – ORGANIC FOOD PRODUCTS RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-1103, Idaho Code. ()

001. TITLE AND SCOPE.

~~01. Title. The title of this chapter is IDAPA 02.06.33, "Organic Food Products Rules." ()~~

021. Scope. These rules govern definitions, requirements for production, handling, and labeling of organic plant and animal products. These rules further govern the general requirements for certification of producers and handlers of plant and animal products, as well as program fee structures. ()

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (~~July 7, 2010~~ **April 2, 2021**), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=b885492294d6e01d334ae6076da2c3c2&rqn=div5&view=text&node=7:3.1.1.9.32&idno=7>. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, Boise, Idaho 83712. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions found in Section 22-1102, Idaho Code, the following definitions apply to the interpretation and enforcement of these rules: ()

01. Agent. Any entity accredited by the Secretary of the United States Department of Agriculture as a certifying agent for the purpose of certifying a production or handling operation. ()

02. Certification. A document issued by the Department to a producer/handler who is in compliance with this rule ~~who has more than five thousand dollars (\$5,000) annual gross organic sales.~~ ()

~~03. Educational Activity. Seminar, conference, farm tour, class, or research. ()~~

043. Food Products. Includes all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products. ()

04. Gross Organic Sale. The grand total of all organic revenue and/or sales transactions that occurred within a calendar year.

05. Materials. Any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling. ()

011. -- 199. (RESERVED)

200. IDAHO ORGANIC CERTIFICATION SEAL.

01. Description of Seal. Certified operations that become certified for the first time prior to July 1, 2013

may continue to use the seal depicted in Figure 1. Certified operations that become certified for the first time July 1, 2013 and later may only use the seal in Figure 2 and Figure 3.



FIGURE 1



FIGURE 2



FIGURE 3

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02. Utilization of Seal. The Idaho organic certification seal as approved by the director and as shown in Figure 1, and Figure 2, and Figure 3, may be imprinted or affixed on labels, packages or products, or used in advertising in any manner and signifies that the standards and rules developed in accordance with the provisions of this rule and all other conditions of the provisions of this chapter have been met. ()

a. Any container manufacturer may apply for authorization to imprint facsimiles of the ISDA organic certification seal on containers of organic products. ()

b. Authorization granted to imprint facsimile seals is subject to review by the director on an annual basis, or more frequently if necessary. ()

~~201. REGISTRATION OF APPROVED MATERIALS.~~

~~The director may establish a list of registered branded materials for use in organic production, processing, or handling.~~
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~~**01. Registration.** Registration is voluntary. ()~~

a. All applicants applying for registration of materials must submit the application to the Department on forms prescribed by the Department. ()

b. An applicant for materials registration must demonstrate that the material meets the requirements and standards of the National Organic Program. Specifically, the material may not be a material prohibited for use in the production, processing, or handling of organic products by 7 C.F.R. Section 205.105, and may not be otherwise prohibited for use in organic production, processing, or handling by the National Organic Program. ()

02. Effect of Registration. The fact that a material is registered is not a guarantee that the registered material will be acceptable for use by certified organic producers, processors, or handlers or other organic certifying agencies other than ISDA. ()

03. Department Not Liable. The Department is not liable for any losses or damages that occur as a result of any person's use of any registered branded material. The Department is not liable for any losses or damages that result from delays that occur in the registration process due to lack of resources or expertise. ()

04. Registration Fees. The Director may charge the following fees, which are nonrefundable and are not to exceed the stated amounts. ()

a. Operations that hold a current approval from a reputable third party accredited material evaluation program such as the Environmental Protection Agency, an NOP Accredited Certifying Agent, or ISO Guide 65 for the material(s) which it is seeking to register in Idaho must pay two hundred dollars (\$200) for an initial registration application fee, and two hundred dollars (\$200) each year thereafter for renewal of the registration. ()

b. All operations must pay initial and annual inspection fees to keep their product registered. ()

05. Initial and Annual Inspection Fees. ()

a. The hourly rate for inspections is fifty dollars (\$50), including travel time. ()

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. ()

c. There will be a minimum charge of fifty dollars (\$50) plus mileage for any inspection. ()

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. ()

e. A per diem, lodging, and travel as allowed by state and ISDA rules, and any other out of pocket costs incurred by ISDA in conducting annual or initial certification inspections will be charged to the operation. ()

f. Upon approval by ISDA, private inspectors may be utilized. The applicant or operator will bear the total cost of the private inspection. ()

06. Seal for Registered Branded Materials. When a material is registered and added to the list of registered branded materials, the Director will approve the use of the seal in Figure 3 on the packaging and in the promotions for the sale of the registered material subject to the National Organic Program and Idaho state rules:



FIGURE 3

~~07. **Revocation of Registration.** If at any time the registered material is determined to be not suitable for organic use, the Director may revoke the registration of the branded material, remove the material from the list of registered branded materials, and revoke authorization to use the seal shown in Subsection 201.06.~~ ()

2021. -- 299. (RESERVED)

300. CERTIFICATION REQUIREMENTS AND FEES.

01. Certification Requirements. All applicants applying for certification with the Department, must submit the application to the Department on forms prescribed or approved by the Department. ()

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars (\$5,000) must be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. ()

b. Producers/handlers with annual gross organic sales of five thousand dollars (\$5,000) or less may select certification. ()

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. ()

d. Livestock producer and handler applications will be accepted throughout the year. ()

02. Certification Fees. ()

a. Organic producers/handlers with annual gross organic sales of more than five thousand dollars (\$5,000) up to fifteen thousand dollars (\$15,000) or producers with annual gross income of five thousand dollars (\$5,000) or less requesting certification – Certification Application Fee of One two hundred twenty five dollars (\$125200) that is non-refundable. ()

b. Organic producer/handler with annual gross organic sales of more than fifteen thousand dollars (\$15,000) – Two hundred dollars (\$200). ()

eb. A person who produces and handles their own organic food products pays only one (1) annual certification fee based on gross annual organic sales. ()

03. Certification Inspection Fees.()

a. The hourly rate is thirty five fifty dollars (\$3550) including travel time. ()

- b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. ()
- c. There will be a minimum charge of ~~thirty-five~~ thirty-five fifty dollars (~~\$35~~ \$350) plus mileage for any inspection. ()
- d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. ()
- e. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of ~~forty-seven~~ sixty-five dollars ~~and fifty cents~~ (~~\$47.50~~ \$65) including travel time with a minimum charge of one (1) hour plus mileage. ()
- f. Upon approval by the Department, private inspectors may be utilized. The applicant bears the total cost of the private inspection. ()

04. Additional Services/Charges

- a. Private Label Arrangement – Annual fee of two hundred dollars (\$200) per arrangement assessed to ISDA certified co-packer or handler packaging and/or affixing a private label for a non-ISDA certified entity.
- b. Mediation Fee – Two hundred dollars (\$200) assessed for each request for mediation regarding Denial of Certification, Proposed Suspension, or Proposed Revocation.
- c. Export and Transaction Certifications – Twenty-five dollars (\$25) will be assessed for each international export and transaction certificate requested.

301. GRADUATED GROSS SALES FEE SCHEDULE.

01. Graduated Gross Sales Fee Table. In addition to the fees prescribed above, all producers and handlers certified by the Department must remit with their certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross organic sale dollar amount for the upcoming calendar year, with a minimum fee of ~~ten~~ thirty-five dollars (~~\$10~~ \$35). The graduated gross organic sales fee structure is as follows:

0 <u>0</u> - 2,000	\$10 <u>\$40</u>
02,001 <u>2,001</u> - 5,000	\$235 <u>\$235</u>
5,001 - 10,000	\$6065 <u>\$6065</u>
10,001 - 15,000	\$75100 <u>\$75100</u>
15,001 - 20,000	\$1030 <u>\$1030</u>
20,001 - 25,000	\$12565 <u>\$12565</u>
25,001 - 30,000	\$15095 <u>\$15095</u>
30,001 - 35,000	\$475230 <u>\$475230</u>
35,001 - 50,000	\$250325 <u>\$250325</u>

50,001 - 75,000	\$375,490
75,001 - 100,000	\$50,650
100,001 - 150,000	\$75,097.5
150,001 - 200,000	\$1,0300
200,001 - 280,000	\$1,40820
280,001 - 375,000	\$1,8752,440
375,001 - 500,000	\$2,503,250
500,001 and up	0.75% of gross organic sales up to \$5,06,500

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~~02. — Non-Refundable. Certification application fees are non-refundable.~~

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302. -- 999. (RESERVED)